

REMARKS

Claims 35-68 were pending in the Application. Applicants cancelled claims 35-36, 40, 43-44, 48-49, 51-52, 56-57, 61-62 and 66 without prejudice or disclaimer. Hence, claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68 are pending in the Application. Applicants cancelled claims 35-36, 40, 43-44, 48-49, 51-52, 56-57, 61-62 and 66 only to expedite the issuance of claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68 and not in response to the Examiner's cited art. Applicants reserve the right to file a continuation patent application to capture the subject matter of cancelled claims 35-36, 40, 43-44, 48-49, 51-52, 56-57, 61-62 and 66.

Claims 35-36, 40, 43-44, 48-49, 51-52, 56-57, 61-62 and 66 remain rejected under 35 U.S.C. §102(e). Applicants cancelled claims 35-36, 40, 43-44, 48-49, 51-52, 56-57, 61-62 and 66, and hence the rejections to claims 35-36, 40, 43-44, 48-49, 51-52, 56-57, 61-62 and 66 are moot.

Further, claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants amended claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68 to be rewritten in independent form. Hence, claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68 are allowable. Applicants respectfully request the Examiner to issue a notice of allowance allowing claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68.

As stated above, Applicants amended claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68 to be rewritten in independent form and not to overcome prior art. Hence, no prosecution history estoppel arises from the amendments to claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707

(2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

As a result of the foregoing, it is asserted by Applicants that claims 37-39, 41-42, 45-47, 50, 53-55, 58-60, 63-65 and 67-68 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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